Secl't. II-87.—44,000—15-11-35.

Z 54

(193) Department.

2nd SERIES.

G.O. No. 287

DATED 2 1951

[Despatch Abstract.]

Taxes - Property profession, carriages and animals and carts - Udipi Municipal Council - leviable from the date specified in the notification.

OFFICE OF THE MUNICIPAL COUNCIL
SEP 25 1936
MANGALORE

MUNICIPAL **DEPARTMENT.**

Received.....19 . *Registered*.....19

SECRETARY TO GOVERNMENT
30 SEP 1936
24153

Subject.

Taxes - Property Tax - Levy of - instructions solicited.

ENCLOSURES.
No.....
.....
Spare copies.....

C. No. 2315/36

Station U d i p i, , *Dated the* 20th September 1936

From (*Name*) M. R. Ry. S. U. Krishna Nayak,

(*Designation*) Commissioner, Udipi Municipality.

To The Secretary to the Government of Madras,

LOCAL SELF GOVERNMEET Udipi Department.
Through the Chairman Municipal Council, (Mangalore).

Sir,

I submit the following points for favour of consideration; instructions and orders of Government.

The Special Officer of this Municipality in exercise of the powers of the Council vested in him under section 368 (3) of the Madras District Municipalities Act, 1920, as amended, notified under sections 78 and 80 of the said Act that taxes on property, profession, carriages and animals, and carts would be levied at certain rates as specified in the notification with effect from 1-2-1936. Copies of the notifications are enclosed.

Ps of the notification under Sec. 80 duly read

2. These taxes being [illegible] half yearly under the Act notices have been issued demanding the taxes from the

the half year ended 31-3-1936. Now a question has been raised if the taxes can be levied for the full half year in view of the fact that the levy was notified with effect from 1-2-1936. I consider that the taxes cannot be levied for portions of a half year.

3. Another point urged is, that the Municipality having been constituted with effect from 1-11-35, levy of the taxes for the whole half year commencing from 1-10-35 to 31-3-36 is not in order and is inequitable. It is further contended that the notification having not been in force prior to 1-2-1936, after ~~since~~ the inception of the Municipality from 1-11-35, there can be no liability to pay taxes for the period commencing from 1-11-35 to 31-1-1936.

4. Under the provisions of the Act, the taxes should be levied half yearly and not for a portion of a half year. It is difficult to reconcile with this the view that the notification having come into force from 1-2-1936, levy of the taxes for the full half year is not ~~in order and unreasonable~~.

5. In these circumstances, I request that the Government may be pleased to issue necessary instructions in the matter. In my opinion the taxes may be levied and collected for the full half year and the Council may consider the question of a proportionate refund of the tax so collected. The Government may be pleased to issue orders if this may be done.

Your obedient servant,

21.9.36.

COMMISSIONER.

D.K.
Compd.

S U B M I T T E D.

22-9-36.

C H A I R M A N.

21-1-36
3-2-36

36

UDIPI MUNICIPALITY.

NOTIFICATION.

(Under section 80 of the Madras District Municipalities Act 1920 as amended.)

It is hereby notified for the information of the public that, the Special Officer of the Udipi Municipality, in exercise of the powers and functions of the Udipi Municipal Council vested in him by sub-section (3 of section 368 of the Madras District Municipalities Act, V of 1920, as amended, resolves to levy within the municipal area of Udipi the following taxes at the rates under each with effect from 1-2-1936.

1. PROPERTY TAX FOR GENERAL PURPOSES.

(a) In the case of lands which are not used exclusively agricultural purposes and are not occupied by, or adjacent and appurtenant to buildings:- Nil.

(b) In the case of lands used exclusively for agricultural purposes at 15% per half year of the annual Government assessment thereon.

(c) In the case of buildings with its site and other adjacent premises occupied as an appurtenance thereto and in all cases other than items (a) and (b) above at 4½% per half year on their respective annual rental value.

2. SCAVENGING TAX PER HALF YEAR.

(i) In the case of item 1 (a) above:- Nil.

(ii) In the case of item 1 (b) above at 3% of the annual Government assessment.

(iii) In all other cases at 1 per cent on the annual rental value.

3. PROFESSION TAX.

Class.	Half yearly income. Rs.	Half yearly Tax. Rs.	Rs	A	P
I	More than 21,000	..	275-	0-	0
II	" 18,000 but not more	than 21000	225-	0-	0
III	" 12,000 " "	18000	150-	0-	0
IV	" 9,000 " "	12000	85-	0-	0
V	" 6,000 " "	9000	55-	0-	0
VI	" 4,200 " "	6000	28-	0-	0
VII	" 3,000 " "	4200	20-	0-	0
VIII	" 1,800 " "	3000	10-	0-	0
IX	" 1,200 " "	1800	6-	0-	0
X	" 600 " "	1200	3-	0-	0
XI	" 300 " "	600	1-	8-	0
XII	" 150 " "	300	0-	8-	0

4. TAX ON CARRIAGES AND ANIMALS.

		HALF YEARLY TAX.
(i)	For every four-wheeled vehicles with springs or other appliances acting as springs constructed to be drawn by one or more animals..	10- 0- 0
(ii)	For every two-wheeled vehicle with springs or other appliances acting as springs constructed to be drawn by one or more animals.	4- 0- 0
(iii)	For every bicycle or tricycle	1- 8- 0
(iv)	For every other vehicle with springs or other appliances acting as springs not being a child's Perambulator or go cart	3- 0- 0
(v)	For every elephant	12- 0- 0
(vi)	For every horse or mule not under 12 hands ..	4- 0- 0
(vii)	For every camel	6- 0- 0
(viii)	For every dog	0- 8- 0

TAX ON CARTS:

For every cart kept within the Municipality 2- 0- 0

(N. B.) All carts and carriages kept within the Municipality should be registered at the Municipal Office for the 1st half year on or before the 20th October of every year. A municipal number should be affixed to every carriage let out for hire, to every bicycle or tricycle and every cart. A tin ticket will be furnished from the Municipal Office on payment of 2 annas to be affixed to every bicycle or tricycle and the Municipal number will be painted on carriages and carts, the numbering fee being one anna for each carriage or cart.

April and for the 2nd half year on or before the 20th

Office of the Udipi Municipality,
Station:- Udipi,
Dated 29-1-1936.

Sd:- H. H. Schamnad
SPECIAL OFFICER.

/ True Copy /

C. No. 34153 from the Comms. Udipi Mpty. c/No. 2315/36 Dt 20-9-36

Tax - property - profession, carriages and animals and carts - Udipi Mk. Cl - levy.

Please see the letter of the Comms. of the Udipi Mpty. on pp 1-2 c/f and the notification on pp. 3-4 c/f. It will be observed that the Spl. Officer of the Mpty. published a notification under Section 80 of the M. D. M. Act, 1920 in an extraordinary issue of the South Kanara Dt. Gazette for the levy of property and profession taxes and taxes on carriages and animals and carts with effect from 1-2-36. The notification is dated 29-1-36. It may therefore be taken to have been published on or before 1-2-36. In this notification there is no reference to the notice under Section 78 of the Act. From para 1 of the Comm'r's letter it however appears that the notice under Section 78 was also published earlier.

p 4 c/f

pp 3-4 c/f

p 1 c/f

2/ The question for consideration is whether the above taxes can be levied for the full half year ending 31st March 1936 as their levy was notified with effect from 1-2-36 only. The taxes are leviable only from the date specified in the notification ie. 1-2-36 and they cannot be levied with retrospective effect

effect vide G.O. No. 1862 A(R) 21-1-36 and the Advocate-General's opinion on pp 5-6 ibid

3/ As regards property tax attention is a... invited to rule 14 (1) of Sch. III to the M.D.M. Act. This tax is leviable at such percentages of the annual value of the property as may be fixed by the M.C. for every half-year vide Sections 81(2) and 86 of the Act. The tax payable for the period from 1-2-36, the date specified in the notification will therefore in effect be the tax due for the entire half-year ending 31st March 1936. In the case of a municipality constituted in the course of a half-year there is no provision in the M.D.M. Act regarding the grant of remission of property tax for the period prior to the date of its constitution. Section 90 (1) (h) ~~provides~~ of the Act provides for the grant of a proportionate remission of property tax in respect of a property situated in an area included within a municipality within the first four months of a half-year. It may also be noted that under Section 87(1) the minimum period of vacancy for a building for which remission of tax can be claimed is 30 days. On the analogy of these provisions the C. may grant a proportionate remission of the tax to the assessees concerned for the period prior to 1-4-35, the date on which the Udipi Mpty was constituted

constituted. As the tax-payers had ~~benefit~~ the benefit of the municipal services for only five months in the half year from 1-11-36 and had derived no benefit ~~There seems to be~~ benefit for one month (there having been no panchayat) ~~the necessity for~~ the grant of any remission of concession of the tax seems reasonable -

4/ As regards profession tax attention is solicited to section 93 (1) of the Act. Under this section this tax is leviable at full rate for a half-year on all persons or companies that transact any business or exercise any business etc. in a municipality for not less than 60 days in the aggregate in any half year. In the present case there were just 60 days in the half-year ending 31st March 1936 from the date specified in the notification (1-2-36). The tax is therefore leviable ~~only~~ at the full rate and on all persons or companies that transacted any business etc. for an aggregate period of 60 days from 1-2-36 in the half-year. The Act does not provide for the grant of remission of profession tax. No tax will however be due if the person or company transacted any business etc. for less than 60 days in the aggregate

5/ The provisions regarding the levy of the taxes on carriages and animals and carts are contained in sections 98-100 and 105-106 respectively of the Act. These taxes are also leviable in full in respect of the ~~conveyances~~ vehicles & animals which were kept in the Mpty. from 1-2-36 subject to the provisions of sub sections (1) to (3) of section

99

99 and Sections 100 and 106. In the case of carriages & animals a moiety only of the half-yearly tax is leviable if the aggregate period during which the carriage or animal is kept within the mofty exceeds 15 days but is less than 60 days. If such aggregate period does not exceed 15 days no tax is leviable for the half-year. In regard to carts a portion of the tax may be remitted on application if the carts concerned have been kept in the mofty for an aggregate period not exceeding 15 days in the half-years

6/ It may be mentioned in this connection that in the case relating to the levy of profession tax by Gollapalem Panchayat (Nellore Dt) which came into existence after 1.10.35 in which the St. Govt. sanctioned the levy of profession tax from 1.10.35 with reference to a notification published in the St. Gazette in March 1936 the H.M.2 held the view that the levy of the tax with retrospective effect from 1.10.35 with reference to a notification published in the St. Gazette in March 1936 was not illegal. This case is, however a special one and cannot be taken as a precedent vide Secretary's orders in the margin at the bottom of page 28 of P.O. No. 5773 L.M.D. 27-8-36

Proceedings 15.2.36 (H)

7/ The Comm. has not placed the matter before the H.H. before addressing the Govt. He may however be asked to levy the taxes as suggested

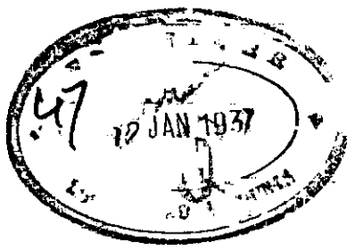
Suggested in paras 2 to 5 above. A draft order is subd. for approval. It may be sent to the Exr. for perusal before issue.

31.XII.36.

5/1/37

9/1/37

Examiner



Sp 9/1

L.S.Pwo No. 34153-1-C
9-1-37

Examiner's Office.

Seen. Thanks.

20/1

Exr No. 47-1
20.1.36

L.S.G.deptt.u.o.

1921. ✓

The order may now issue

20/1

4/1

C.F. 16.

051/21/1

DRAFT FOR APPROVAL.

	Date.	Initials.
When received for fair copying ..		
When copied ..		
When examined..		
When signed ..		
When despatched.		

SUBJECT:— Taxes on property, profession, carriages and animals and carts - Udipi M-C. leviable from the date specified in the notification

READ AGAIN _____, dated _____ 19____

" " _____ " _____ 19____

READ *ALSO*:—

No. 34153 From the Comms. Udipi Mpty, No. 2315/38 dated 20-9-1936.

" _____ " _____ " _____ " _____ 19____.

" _____ " _____ " _____ " _____ 19____.

Order / Resolution — Ms. / Rout. No. 287, dated 21-1-1937

dp 21/1

The Comms. Udipi Mpty is informed that the property and profession taxes and the taxes on carriages and animals and carts are leviable only from 1-2-36 the date specified in the notification published under section 80 of the M.D.M. Act, 1920 and they cannot be given effect to from an earlier date. His attention is in this connection invited to G.O. No. 186 Dt. 21-1-31.

2/ As regards the property tax the attention of the Comms. is also invited to rule 14 (1) of Sch. IV to the M.D.M. Act. This tax, though leviable from 1-2-36, the date specified in the notification, will in effect

effect be the tax due for the full half year ending 31st March 1936 as the tax leviable at such percentages of the annual value of property as may be fixed by the m.c. for every half year. As the Municipality was constituted on 1.11.35 and the people had the benefit of its services only for five months from the assessees may be given some ~~that date no hardship is involved in~~ remission on the analogy of ~~collecting the full property tax for~~ the remission payable under Section 90(1)(b) ~~the full half-year grace Act~~.

3/ Under section 93(1) of the M.D.M. Act profession tax is leviable in full on all persons or companies that transact any business or exercise any profession etc. in a municipality for not less than 60 days in the aggregate in any half year. As there were ~~were~~ ~~yet~~ 60 days in the half year ending 31st March 1936 from the date specified in the notification (1.2.36) this tax should be levied at the full rate and on such persons or companies that transacted any business etc. for an aggregate period of 60 days from 1.2.36 in the half year. The Act does not contemplate or permit-

(after the date specified in the notification published under section 80.

permit of the grant of a refund or remission of any portion of the profession tax leviable from persons, under the provisions of the above Section.

4/ The taxes on carriages and animals and carts should also be collected in full for the half years in respect of the vehicles and animals and carts kept within the municipality from 1.2.36 subject to the provisions of sub sections (a) to (s) of section 99 and sections 100 and 106 of the M.D.M. Act.

31.XII.36

5/1/37

9/1

To

The Commr. Kodiyi Mpty. ✓
with this. the C.M.C.
(with a copy of G.O No. 186 d/M 21.1.37)

" Exn. d.F.A. ✓
Two copies for decision

Date

Government of Madras. 13

Received.....1937. Registe.....1937.

Abstract.

Taxes - property, profession, carriages and animals and carts - Udipi Municipal Council - leviable from the date specified in the notification.

LOCAL SELF GOVERNMENT DEPARTMENT.

G.O. No. Ms. 287, dated the 21st January 1937.

Read the following paper:-

From the Commissioner, Udipi Municipality, No. 2315/36, dated 20-3-1936.

O R D E R:-

The Commissioner, Udipi Municipality, is informed that the property and profession taxes and the taxes on carriages and animals and carts are leviable only from 1st February 1936 the date specified in the notification published under section 80 of the Madras District Municipalities Act, 1920, and they cannot be given effect to from an earlier date. His attention is in this connection invited to G.O. No. 186 L.& M., dated the 21st January 1931.

2. As regards the property tax the attention of the Commissioner is also invited to rule 14(1) of Schedule IV to the Madras District Municipalities Act. This tax, though leviable from 1st February 1936, the date specified in the notification, will in effect be the tax due for the full half year ending 31st March 1936 as the tax is liable at such percentages of the annual value of property as may be fixed by the municipal council for every half year. As the municipality was constituted on 1st November 1935 and the people had the benefit of its services only for five months, the assessees may be given some remission on the analogy of the remission payable under section 90(1)(b) of the Act.

3. Under section 93(1) of the Madras District Municipalities Act

profession tax is leviable in full on all persons or companies that transact any business or exercise any profession etc., in a municipality for not less than 30 days in the aggregate in any half-year after the date specified in the notification published under section 80. As there were just 30 days in the half year ending 31st March 1933 from the date specified in the notification (1st February 1933) this tax should be levied at the full rate and on such persons or companies that transacted any business etc. for an aggregate period of 30 days from 1st February 1933 in the half year. The act does not contemplate or permit of the grant of a refund or remission of any portion of the profession tax leviable under the provisions of the above section.

The taxes on carriages and animals and carts should also be collected in full for the half year in respect of the vehicles and animals and carts kept within the municipality from 1st February 1933 subject to the provisions of sub-sections (1) to (3) of section 99 and sections 100 and 105 of the Madras District Municipalities Act.

(By Order of the Government, Ministry of Local Self Government)

K.V.Sankara Variar,
Assistant Secretary to Government

To the Commissioner, Udipi Municipality,
through the Chairman, Municipal Council,
(with enclosure)
Examiner of Local Fund Accounts.

Forwarded,

(By Order)

Superintendent.